

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN DOE, M.D.,

Plaintiff,

v.

CASE NO.
HON.

THE BOARD OF REGENTS OF
THE UNIVERSITY OF MICHIGAN,
MARIE LOZON, M.D., and JUSTIN
DIMICK, M.D., Individually,

Defendants.

MIDWEST LEGAL PARTNERS, PLLC
By: **SAIF R. KASMIKHA** (P74320)
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CUMMINGS, McCLOREY, DAVIS
& ACHO, P.L.C.
By: **RONALD G. ACHO** (P23913)
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Attorneys for Plaintiff
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**PLAINTIFF'S MOTION FOR LEAVE TO FILE EXHIBITS UNDER SEAL
FOR HIS MOTION FOR TEMPORARY RESTRAINING ORDER**

NOW COMES Plaintiff, DR. JOHN DOE, M.D., by and through his attorneys, MIDWEST LEGAL PARTNERS, PLLC, by SAIF R. KASMIKHA, and CUMMINGS, McCLOREY, DAVIS & ACHO, PLC by RONALD G. ACHO, and pursuant to E.D. Mich. L. Civ. R. 5.3(b), request that this Honorable Court allow Plaintiff to file Exhibits, Under Seal, for his Motion for Temporary Restraining

Order, for the reasons stated in the attached Brief in Support of this Motion.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an Order granting Plaintiff leave to File Exhibits Under Seal and permit the Plaintiff to file, under seal, Exhibits for his Motion for Temporary Restraining Order.

Respectfully submitted,

/s/ Saif R. Kasmikha

Dated: December 29, 2021

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**PLAINTIFF'S BRIEF IN SUPPORT OF HIS MOTION FOR LEAVE
TO FILE EXHIBITS TO VERIFIED COMPLAINT UNDER SEAL**

NOW COMES Plaintiff, DR. JOHN DOE, M.D., by and through his attorneys, MIDWEST LEGAL PARTNERS, PLLC, by SAIF R. KASMIKHA, and CUMMINGS, McCLOREY, DAVIS & ACHO, PLC by RONALD G. ACHO, and for his Brief in Support of his Motion for Leave to File Exhibits to the Verified Complaint Under Seal, states as follows:

On December 29, 2021, Plaintiff filed his Verified Complaint in this matter. Plaintiff files this case anonymously because of the extremely sensitive nature of the case, as Plaintiff's stellar reputation is a critical component to ensuring the public's trust for him to operate on their children for complex procedures, and Defendants' threat to report his suspension to the National Practitioner Data Bank and the State of Michigan Board of Medicine would cause irreparable damage to his reputation and career. As a result, this suit will require disclosure of information "of the utmost intimacy", and therefore, Plaintiff is entitled to protect his identity in this public filing by not disclosing his name. *Doe v. Porter*, 370 F.3d 558, 569 (6th Cir. 2004), citing *Doe v. Stegall*, 653 F.2d 180, 185-186 (5th Cir., 1981). See also *Doe v. Community Medical Center*, 353 Mont. 378; 221 P.3d 651 (Mont. 2009).

Concurrent with the filing of his Verified Complaint, Plaintiff also seeks injunctive relief. In his Motion for Temporary Restraining Order and Order to Show Cause Why A Preliminary Injunction Should Not Be Issued, and supporting Brief, which was filed on December 29, 2021, Plaintiff, relies in part, on Exhibits B through F, that demonstrate Defendants' wrongful actions. Exhibit B includes promotional materials, including posters, signs, brochures and other printed advertisements, promulgated by Defendants which use Plaintiff's likeness in order to promote Michigan Medicine. These materials must be sealed to protect Plaintiff's

identity.

Exhibit C is the notice submitted to Plaintiff by Defendants on March 27, 2021, informing Plaintiff of his procedural rights to a hearing, and that his suspension would be reported to the National Practitioner Data Bank and State of Michigan Board of Medicine because the hearing process will exceed the 30-day timeframe requirements. Exhibit D is the letter from Defendants requesting that Plaintiff submit a formal hearing request. Exhibit E is Plaintiff's formal request for a hearing dated April 27, 2021. Exhibit F is an email from Defendants' surgery scheduler outlining concerns and issues caused by Plaintiff's suspension. Exhibits C through F must be sealed to protect Plaintiff's identity.

E.D. Mich. L. Civ. R. 5.3(b) authorizes the Court to seal documents when sealing is not otherwise authorized by statute or rule. *Friske v. Scott*, 2008 WL 4239509 (E.D. Mich., September 11, 2008). Permitting the filing of this exhibit under seal preserves the confidentiality of Plaintiff's identity.

For these reasons, Plaintiff respectfully requests that this Honorable Court allow Plaintiff to file, under seal, Exhibits B through F of his Motion for Temporary Restraining Order and Order to Show Cause Why A Preliminary Injunction Should Not Be Issued, and supporting Brief.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an Order granting Plaintiff leave to File Exhibits Under Seal and permit the

Plaintiff to file, under seal, Exhibits B through F of his Motion for Temporary Restraining Order and Order to Show Cause Why A Preliminary Injunction Should Not Be Issued, and supporting Brief.

Respectfully submitted,

/s/ Saif R. Kasmikha

Dated: December 29, 2021

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LOCAL RULE CERTIFICATION

LOCAL RULE CERTIFICATION: I, SAIF R. KASMIKHA, certify that this document complies with Local Rule 5.1(a), including: double-spaced (except for quoted materials and footnotes; at least one-inch margins on the top, sides, and bottom, consecutive page numbering; and type size of all text and footnotes that is no smaller than 10-1/2 characters per inch (for non-proportional fonts) or 14-point

(for proportional fonts). I also certify that it is the appropriate length. Local Rule 7.1(d)(3).

/s/ Saif R. Kasmikha
Saif R. Kasmikha (P74320)